

ASSEMBLY BILL

No. 1643

Introduced by Assembly Member Negrete McLeod

February 23, 2001

An act to amend Section 1812.509 of, and to add Chapter 8 (commencing with Section 1812.540) to Title 2.91 of Part 4 of Division 3 of the Civil Code, relating to long-term care facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 1643, as introduced, Negrete McLeod. Long-term care facilities: temporary staff.

Existing law, the Employment Agency, Employment Counseling, and Job Listing Services Act, governs employment agencies, including nurses' registries. The provisions governing nurses' registries require, among other things, that a nurse's registry maintain a surety bond and regulate continuing contracts between private duty nurses and nurses' registries. A violation of the act is a misdemeanor.

This bill would prohibit an employment agency that procures temporary employment for long-term health care employers from referring licensed nursing staff or certified direct care staff, as defined, for employment without first conducting a personal interview of the individual, verifying the experience, training, and references of the individual, and verifying that the individual is in good standing with the appropriate licensing or certification board, including verification that the person has successfully secured a criminal record clearance.

The bill would regulate the temporary assignment of licensed nursing or certified direct care staff rendering service to a patient who is a resident of a long-term care facility. Among other things, the bill would require employment agencies that refer temporary staff to a licensed

long-term care facility to provide written verification to the facility that the staff person is in good standing with the applicable registry or licensing board, has at least one year of experience working in a long-term health care facility, and has had a recent health examination. The employment agency would also be required to provide written verification that the referral staff does not have any unresolved allegations against them involving the mistreatment, neglect, or abuse of a patient. The bill would enact other requirements related to advertising by employment agencies with respect to employment in long-term health care facilities.

Since a violation of these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1812.509 of the Civil Code is amended
2 to read:

3 1812.509. (a) No employment agency shall, when
4 employment would be in violation of Chapter 1 (commencing with
5 Section 1171) of Part 4 of Division 2 of the Labor Code or Part 27
6 (commencing with Section 48000) of the Education Code, accept
7 any application for employment made by, or on behalf of, any
8 minor, or place or assist in placing any minor in that employment.

9 (b) Every employment agency shall notify each jobseeker
10 before sending the jobseeker in response to a request for
11 employment whether a labor contract is in existence at the
12 establishment to which the jobseeker is being sent, and whether
13 union membership is required.

14 (c) No employment agency shall send a jobseeker to any place
15 where a strike, lockout, or other labor trouble exists without
16 notifying the jobseeker of that fact and shall in addition thereto



1 enter a statement of those conditions upon the contract or receipt
2 given to the jobseeker.

3 (d) No babysitting, domestic, or other employment agency
4 which procures babysitting or domestic employment for
5 employers shall refer babysitters or domestics for any employment
6 without first conducting a personal interview of the jobseeker and
7 making a reasonable effort to verify the experience or training of
8 the jobseeker.

9 (e) *No employment agency that procures temporary*
10 *employment for long-term health care employers shall refer*
11 *certified direct care staff, as defined in Section 1812.540, licensed*
12 *registered nurses, or licensed vocational nurses for any*
13 *employment without first conducting a personal interview of the*
14 *individual, verifying the experience, training, and references of the*
15 *individual, and verifying that the individual is in good standing*
16 *with the appropriate licensing or certification board, including*
17 *verification that the individual has successfully secured a criminal*
18 *record clearance.*

19 SEC. 2. Chapter 8 (commencing with Section 1812.540) is
20 added to Title 2.91 of Part 4 of Division 3 of the Civil Code, to
21 read:

22
23 CHAPTER 8. LONG-TERM CARE FACILITIES
24

25 1812.540. For purposes of this chapter, the following
26 definitions shall apply:

27 (a) “Direct care service” means the temporary assignment of
28 certified direct care staff to render basic care services directed at
29 the safety, comfort, personal hygiene, or protection of a patient
30 who is a resident of a long-term health care facility.

31 (b) “Certified direct care staff” means a certified nurse
32 assistant or psychiatric technician.

33 (c) “Nursing service” means the temporary assignment of a
34 licensed registered nurse, or licensed vocational nurse to render
35 nursing and basic care services to a patient who is a resident of a
36 long-term health care facility.

37 (d) “Licensed nursing staff” means a licensed registered
38 nurse, or licensed vocational nurse.

39 (e) “Long-term health care facility” means a licensed facility,
40 as defined in Section 1418 of the Health and Safety Code.

1 1812.541. Every employment agency that refers temporary
2 certified direct care staff to an employer that is a long-term health
3 care facility shall provide the employer with all of the following:

4 (a) Written verification that the employment agency has
5 verified that any certified direct care staff person referred by the
6 agency who is a certified nurse assistant is registered on the state
7 registry of certified nurse assistants and is in good standing. The
8 employment agency shall provide to the employer the certified
9 nurse assistant's professional certification number and date of
10 expiration.

11 (b) A statement that the certified direct care staff person has at
12 least one year of experience working in a long-term health care
13 facility.

14 (c) A statement that the certified direct care staff person has had
15 a health examination within 90 days prior to employment with the
16 employment agency or seven days after employment with the
17 employment agency and at least annually thereafter by a person
18 lawfully authorized to perform that procedure. Each examination
19 shall include a medical history and physical evaluation. The
20 employment agency shall also provide verification that the
21 individual has had tuberculosis screening within 90 days prior to
22 employment and annually thereafter.

23 (d) A statement that certified direct care staff person will
24 participate in the facility's in-service training programs at the
25 request of the long-term health care employer.

26 (e) A statement that a certified nurse assistant is in compliance
27 with the in-service training requirements of paragraph (1) of
28 subdivision (a) of Section 1337.6 of the Health and Safety Code.

29 1812.542. Every employment agency that refers temporary
30 licensed nursing staff to an employer who is a licensed long-term
31 health care facility shall provide the employer with all of the
32 following:

33 (a) Written verification that the individual is in good standing
34 with the Board of Registered Nursing or the Board of Vocational
35 Nursing and Psychiatric Technicians, as applicable, and has
36 successfully secured a criminal record clearance. The employment
37 agency shall provide to the employer the individual's professional
38 license and registration number and date of expiration.



1 (b) A statement that the licensed nursing staff person has at
2 least one year of experience working in a long-term health care
3 facility.

4 (c) A statement that the licensed nursing staff person has had
5 a health examination within 90 days prior to employment with the
6 employment agency or seven days after employment with the
7 employment agency and at least annually thereafter by a person
8 lawfully authorized to perform that procedure. Each examination
9 shall include a medical history and physical evaluation. The
10 employment agency shall also provide verification that the
11 individual has had tuberculosis screening within 90 days prior to
12 employment and annually thereafter.

13 1812.543. (a) An employment agency that makes referrals of
14 licensed nursing staff or certified direct care staff for temporary
15 employment in a long-term health care facility shall adopt policies
16 and procedures regarding prevention of resident or patient abuse
17 by temporary staff.

18 (b) The employment agency shall provide written verification
19 to the long-term health care facility that any staff referred by the
20 agency does not have any unresolved allegations against them
21 involving the mistreatment, neglect, or abuse of a patient,
22 including injuries of unknown source and misappropriation of
23 resident property.

24 (c) If an employment agency that makes referrals of staff for
25 temporary employment in a long-term health care facility is aware
26 of or receives notification that an allegation of patient abuse or
27 neglect has been made against one of its employees, the agency
28 shall immediately suspend that employee from further referral for
29 employment in any long-term health care facility. The employee
30 shall remain on suspension until the employment agency has
31 received information which verifies that the allegation is
32 unsubstantiated.

33 1812.544. (a) Every employment agency that makes
34 referrals of licensed nursing staff or certified direct care staff for
35 temporary employment in a long-term health care facility shall
36 maintain a record of all advertisements, showing the date of
37 publication and the publication in which the advertisement
38 appeared, for a period of one year from the date of the
39 advertisement.

1 (b) No employment agency that makes referrals for
2 employment to a long-term health care facility shall, by its name,
3 advertisement, or any other representation, represent itself to be a
4 home health agency, as defined by subdivision (a) of Section 1727
5 of the Health and Safety Code, or to perform the services of a home
6 health agency. The employment agency shall provide a written
7 disclosure to each employer stating that it does not perform the
8 services of a home health agency and clearly describing that it is
9 an employment agency only.

10 (c) Any facility or individual may refer complaints concerning
11 employment agencies which place licensed nursing staff or direct
12 care staff in long-term health care facilities to the appropriate
13 licensing, certification, ombudsman, adult protective services, or
14 proper law enforcement agency for action.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.

